

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

JAMES RYALS, Jr. et als.,	)	
	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 3:09cv625
	)	
HIRERIGHT SOLUTIONS, INC., et al.,	)	
	)	
Defendants.	)	

**CLASS COUNSEL’S SECOND REQUEST FOR CLARIFICATION**

On October 31, 2011, Class Counsel moved for an award of attorneys fees and costs. (Docket No. 108). The Court has now ordered such attorneys fees:

Accordingly, the Court FINDS that an award of \$5,958,750.00 or 21% of the total cash value is reasonable and merited by the exceptional work of Plaintiff’s counsel.

Docket No. 122 at 2. Plaintiff’s counsel, obviously, would prefer to interpret this award – for their ‘work’ – to compensate their attorneys fees incurred. Plaintiffs’ counsel moved for clarification as to expenses. The Court denied the motion, confirming that expenses would be awarded within the approved attorneys fee.

However, while the previous Motion for Clarification was in draft, the Court’s Order on Final Approval and Judgment was entered. The Motion for Clarification was completed and filed prior to review of the Final Approval Order.

The Final Approval Order, a version of an order previously proposed by the Parties, retained Paragraph 8(f)’s inclusion of the payment of the incentive payments to the 17 class representatives from the three cases within the 33% fee cap set in the

Settlement Agreement. The Incentive Awards were by agreement to be paid subject to the limitation that payment of same not cause the total of fees, costs and incentive payments to exceed 33% of the common fund. They were not contemplated by either party to be an actual component of the fee award itself.

Accordingly, the Courts fee award of 21% would not cause the gross payments including incentive award payments to exceed the 33% threshold. The draft Order is mechanically correct to the extent a fee and costs award, coupled with the incentive payments, would otherwise exceed 33%. It becomes mechanically incorrect and in conflict with the Court's attorneys fee Order if the total would not exceed 33%.

Plaintiffs' counsel asks the Court to clarify the Final Approval Order and Judgment (Docket No. 123) to modify Paragraph 8(f) to state:

F. The Plaintiffs and Class Counsel have moved for an Incentive Award for each Class Representative in the amount of ten thousand dollars (\$10,000.00). The Court awards each Class Representative ten thousand dollars (\$10,000.00), *separate and apart from the attorneys' fees award made by the Court (Dkt. No. 122)* and shall be paid within five days after the Effective Date in accordance with Section 8.8.3 of the Agreement

JAMES RYALS, JR., et als.,

By \_\_\_\_\_/s/  
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## CERTIFICATE OF SERVICE

I hereby certify that on this 21<sup>ST</sup> day of December, 2011, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send notification of such filing (NEF) to the following:

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